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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

NAWSHEEN DUFFAYDAR, individually and on behalf all others similarly situated, Plaintiff, v. SONDER HOLDINGS INC., et al., Defendants.	Case No. 2:24-cv-02952-ODW (JCx) [c/w: 2:24-cv-04798-ODW (JCx)] **AMENDED CLASS ACTION COMPLAINT FOR VIOLATIONS OF THE FEDERAL SECURITIES LAWS**
TAD PARK, individually and on behalf of all others similarly situated, Plaintiff, v. SONDER HOLDINGS, INC. et al., Defendants.	

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Lead Plaintiff Tad Park ("Plaintiff") alleges the following based upon the investigation of Plaintiff's counsel, which included a review of United States Securities and Exchange Commission ("SEC") filings by Sonder Holdings, Inc. ("Sonder" or the "Company"), as well as securities analysts' reports and advisories about the Company, press releases, media reports, interviews of former Company employees, and other public statements issued by, or about, the Company. Plaintiff believes that substantial additional evidentiary support will exist for the allegations set forth herein after a reasonable opportunity for discovery.

I. NATURE OF THE ACTION

1. This is a securities class action on behalf of all persons and/or entities who purchased the Company's securities between March 16, 2023 and March 15, 2024, inclusive (the "Class Period"), seeking to pursue remedies under the Securities Exchange Act of 1934 ("Exchange Act") and SEC Rule 10b-5 promulgated thereunder.

2. Sonder leases and operates a variety of accommodations, from fully equipped serviced apartments to hotel rooms. Throughout the Class Period, Defendants attested to the accuracy of Sonder's financial reporting, the disclosure of any material changes to the Company's internal control over financial reporting, and the disclosure of all fraud. Defendants also made numerous representations during the Class Period regarding Sonder's financial results and condition, including, but not limited to, the Company's valuation of operating lease right of use ("ROU") assets and related items within its financial statements.

3. On March 15, 2024, however, Sonder announced that its audited financial statement for the 2022 Annual Report and its unaudited consolidated financial statements in 2023 should no longer be relied upon due to "accounting errors related to the valuation and impairment of operating lease ROU assets and related items."

4. On this news, Sonder's stock price fell $2.10 per share, or 38.2%, to close at $3.40 per share on March 18, 2024, damaging investors. Thus, because of Defendants' misrepresentations and half-truths alleged herein, Plaintiff and other Class members have suffered significant losses and damages.

II. JURISDICTION AND VENUE

5. The claims asserted herein arise under, and pursuant to, Sections 10(b) and 20(a) of the Exchange Act, 15 U.S.C. §§78j(b) and 78t(a), and SEC Rule 10b-5 promulgated thereunder, 17 C.F.R. §240.10b-5.

6. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §1331 and §27 of the Exchange Act.

7. Venue is proper in this District pursuant to §27 of the Exchange Act and 28 U.S.C. §1391(b). Many of the acts charged herein, including the preparation and dissemination of materially false and misleading information, occurred, in substantial part, in this District.

8. In connection with the acts alleged in this Complaint, Defendants, directly or indirectly, used the means and instrumentalities of interstate commerce, including, but not limited to, the mails, interstate telephone communications, and the facilities of an electronic securities exchange located in this District.

III. PARTIES

9. As set forth in the previously filed certification which is incorporated by reference herein (ECF No. 22-2), Plaintiff purchased the Company's securities during the Class Period and has been damaged thereby.

10. Defendant Sonder engages in hospitality services. It operates and manages various accommodations that are suitable for one night and extended stays.

11. Defendant Sonder is incorporated in Delaware and its head office is located at 447 Sutter Street, Suite 405 #542, San Francisco, California 94108.

Sonder securities trades on the Nasdaq Global Market ("NASDAQ") under the ticker symbol "SOND."

12. Defendant Francis Davidson ("Davidson") has served as the Company's Co-Founder and Chief Executive Officer ("CEO") since 2014.

13. Defendant Chris Berry served as the Company's Interim Chief Financial Officer ("CFO") during the Class Period.

14. Defendant Dominique Bourgault ("Bourgault") has served as the Company's CFO since March 2023.

15. Defendants Davidson, Berry, and Bourgault are collectively referred to herein as the "Individual Defendants."

16. During the Class Period, the Individual Defendants, as senior executive officers and/or directors of the Company, were privy to confidential and proprietary information concerning the Company, its operations, finances, financial condition, and present and future business prospects. Additionally, as set forth more fully below, the Individual Defendants had access to material adverse non-public information concerning the Company. Because of their positions within the Company, the Individual Defendants had access to non-public information about the Company's business, finances, products, markets, and present and future business prospects via internal corporate documents, conversations, and connections with other corporate officers and employees, attendance at management and/or board of directors meetings and committees thereof, and via reports and other information provided to them in connection therewith. Because of their possession of such information, the Individual Defendants knew, or were deliberately reckless in not knowing, that the adverse facts specified herein had not been disclosed to, and were being concealed from, the investing public.

17. The Individual Defendants are liable as direct participants in the wrongs alleged herein. In addition, the Individual Defendants, by reason of their status as

senior executive officers and/or directors, were "controlling persons" within the meaning of Section 20(a) of the Exchange Act and had the power and influence to cause the Company to engage in the unlawful conduct alleged. Because of their positions of control, the Individual Defendants were able to, and did, directly or indirectly, control the conduct of the Company's business.

18. The Individual Defendants, because of their positions within the Company, controlled and/or possessed the authority to control the contents of the Company's reports, press releases, and presentations to securities analysts and, through them, to the investing public. The Individual Defendants were provided with copies of the Company's reports and press releases alleged to be misleading herein, prior to, or shortly after, their issuance and had the ability and opportunity to prevent their issuance or cause them to be corrected. Thus, the Individual Defendants had the opportunity to commit the fraudulent acts alleged herein.

19. The Individual Defendants, as senior executive officers and/or directors – and as controlling persons of a publicly-traded company whose common stock was, and is, governed by the federal securities law – had a duty to promptly disseminate accurate and truthful information with respect to the Company's financial condition and performance, growth, operations, financial statements, business, products, markets, management, earnings, and present and future business prospects, and to correct any previously-issued statements that had become materially misleading or untrue, so that the market price of the Company's common stock would be based upon truthful and accurate information. The Individual Defendants' misrepresentations and half-truths during the Class Period violated these specific requirements and obligations.

20. The Individual Defendants are liable as participants in a fraudulent scheme and course of conduct that operated as a fraud and/or deceit on purchasers of the Company's securities by disseminating materially false and misleading

statements and/or concealing material adverse facts. This scheme: (1) deceived the investing public regarding the Company's business, operations and management, and the intrinsic value of the Company's securities; (2) enabled the Company to obtain additional capital at favorable prices, create a public market for its securities, and gain access to the public equity markets; and (3) caused Plaintiff and members of the Class to purchase the Company's securities at artificially inflated prices.

IV. SUBSTANTIVE ALLEGATIONS

A. <u>Background</u>

21. Sonder claims to be focused on a mission to revolutionize hospitality through tech-enabled service and accommodations combined into one seamless experience. Sonder leases and operates a variety of accommodation options — from fully-equipped serviced apartments to hotel rooms — in 43 cities in 10 countries. As of December 31, 2022, Sonder had approximately 9,700 units available for guests to book at over 250 properties.

22. Sonder works directly with real estate owners to lease properties. The Company furnishes and decorates properties to provide a design-led, technology-enabled experience, and then make the properties available for guests to book directly (through the Sonder app, the Company's website, or its sales personnel) or through indirect channels (such as Airbnb, Expedia, Booking.com, and other online travel agencies). Sonder manages its properties using proprietary and third-party technologies, and purports to deliver services to guests via the Sonder app and 24/7 on-the-ground support.

23. The Company also suggests that its accommodations come in a variety of shapes and sizes – from multiple-bedroom apartments with fully-equipped kitchens and private laundry facilities, to hotel rooms or suites. In addition to modern design, Sonder claims to apply technology across its business. The Company further touts that technology underpins its hospitality operations,

including underwriting, supply growth, building openings, pricing, revenue management, demand generation, interior design, and day-to-day operations.

24. As of December 31, 2022, Sonder had approximately 993 employees in the United States, and approximately 702 employees located in nine countries outside of the country. The Company's workforce consisted of approximately 995 salaried and approximately 700 hourly employees as of that date.

B. <u>ASC 842 Lease Accounting Requirements</u>

25. ASC 842, or Accounting Standards Codification 842, is an accounting standard under Generally Accepted Accounting Principles ("GAAP"). The standard was issued by the Financial Accounting Standards Board ("FASB"), and it impacts lease accounting and reporting. In February 2016, the FASB issued ASC 842 to require lessees to recognize all leases, with certain exceptions, on the balance sheet. Subsequently, the FASB issued ASU No. 2018-10, Codification Improvements to Topic 842, Leases, ASU No. 2018-11, Targeted Improvements, ASU No. 2018-20, Narrow-Scope Improvements for Lessors, and ASU 2019-01, Codification Improvements, to clarify and amend the guidance in ASU No. 2016-02. ASC 842 eliminates real estate-specific provisions and modifies certain aspects of lessor accounting. The standard requires that lessees recognize right-of-use assets and lease liabilities on the balance sheet for most leases. This requirement brings greater transparency related to the financial leverage and capital employed by companies.

26. ASC 842 can be simple to understand, interpret, and apply, particularly for accounting professionals. ASC 842 requires that lessees recognize assets and liabilities on the balance sheet for all leases with terms longer than 12 months. ASC 842 also eliminates the classification of leases as either operating leases or finance leases for lessees. Instead, lessees must recognize a right-of-use asset and a lease liability for virtually all lease contracts. By recognizing essentially all leases on the

balance sheet, the standard is intended to provide investors a more accurate picture of a company's leasing activities and obligations.

C. ASC 360 (Property, Plant, and Equipment) Requirements

27. ASC 360 is an accounting standard that dates back to 2001. ASC 360 includes guidelines on how to account for long-lived assets such as buildings, equipment, or land. This standard governs what businesses should do regarding the acquisition, depreciation, impairment, and disposal of these types of assets. Additionally, impairment under ASC 360 occurs when the current fair value of an asset is different from the carrying value. Testing for impairment is a key part of ASC 360. Like ASC 842, ASC 360 can be simple to understand, interpret, and apply, particularly for accounting professionals.

D. Defendants' False and Misleading Statements

28. On March 16, 2023, Sonder filed with the SEC its yearly report on Form 10-K for the period ended December 31, 2022 ("2022 Annual Report"). Attached to the 2022 Annual Report were certifications pursuant to the Sarbanes-Oxley Act of 2002 ("SOX") signed by CEO Davidson and CFO Berry attesting to the accuracy of financial reporting, the disclosure of any material changes to the Company's internal control over financial reporting, and the disclosure of all fraud.

29. The 2022 Annual Report also represented the following regarding the valuation of the Company's ROU assets and related items:

SONDER HOLDINGS INC. AND SUBSIDIARIES
CONSOLIDATED BALANCE SHEETS
December 31, 2022 and 2021
(In thousands, except share and per share information)

	2022	2021
Assets		
Current assets:		
Cash	$ 246,624	$ 69,726
Restricted cash	42,562	215

:counts receivable, net of allowance of $972 and $4,127 at December 31, 2022 and 2021, respectively		5,613		4,638
Prepaid rent		—		2,957
Prepaid expenses		8,066		5,029
Other current assets		10,065		16,416
Total current assets		312,930		98,981
Property and equipment, net		34,926		27,461
Operating lease right-of-use (“ROU”) assets		1,209,486		—
Other non-current assets		16,270		22,037
Total assets	$	1,573,612	$	148,479

* * *

Note 8. Leases

Operating lease ROU assets are included within operating lease right-of-use assets in the consolidated balance sheets. The corresponding operating lease liabilities are included within current operating lease liabilities and non-current operating lease liabilities in the consolidated balance sheets. ROU assets represent the Company’s right to use an underlying asset for the lease term and lease liabilities represent the Company’s obligation to make lease payments arising from the lease.

The adoption of ASC 842 had a material impact on the Company’s consolidated financial statements. On January 1, 2022, the Company recognized $1.0 billion in operating lease ROU assets, $1.1 billion of operating lease liabilities, and a $66.1 million reduction to deferred rent, which was recorded as a reduction to the ROU asset measured on the adoption date. The standard did not materially impact the Company’s consolidated statement of operations and comprehensive loss or consolidated statement of cash flows.

Lease expense for fixed operating lease payments is recognized on a straight-line basis over the lease term. The Company’s lease terms may include options to extend or terminate the lease when it is reasonably certain that it will exercise that option.

Components of operating lease expense were as follows (in thousands):

	Year ended December 31, 2022
Operating lease cost	$ 268,810
Short-term lease cost	3,203

Variable lease cost	(2,582)
Total operating lease cost	$ 269,431

Supplemental information related to operating leases was as follows (in thousands):

	Year ended December 31, 2022
Cash payments for operating leases	$ 218,434
New operating lease ROU assets obtained in exchange for operating lease liabilities	$ 356,157

30. The 2022 Annual Report failed to disclose any impairment charges.

31. The 2022 Annual Report failed to disclose the extent of its internal controls stating the following, in relevant part, regarding the Company's internal controls:

> Notwithstanding the identified material weaknesses, management, including our Principal Executive Officer and Principal Financial Officer, ***believes the consolidated financial statements included in this Annual Report on Form 10-K fairly represent in all material respects our financial condition, results of operations, and cash flows at and for the periods presented in accordance with U.S. GAAP.***
>
> <u>Leases</u>
>
> We previously identified a material weakness in our internal control over financial reporting related to the process to capture and record lease agreements timely and accurately. ***Management has concluded that this material weakness in internal control over financial reporting is due to the fact that the Company did not have the adequate resources with the appropriate level of experience and technical expertise to oversee the Company's leasing business processes and related internal controls.***
>
> * * *
>
> *Changes in Internal Control over Financial Reporting*
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> Other than as discussed above, during the period covered by this report, there has been no change in our internal control over financial reporting that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

32. On May 10, 2023, the Company filed with the SEC its first quarter report on Form 10-Q for the period ended March 31, 2023 (the "1Q23 Report"). Attached to the 1Q23 Report were certifications pursuant to SOX signed by CEO Davidson and CFO Bourgault attesting to the accuracy of financial reporting, the disclosure of any material changes to the Company's internal control over financial reporting and the disclosure of all fraud.

33. The 1Q23 Report provided the following, in pertinent part, regarding the valuation of operating lease ROU assets and related items:

SONDER HOLDINGS INC. AND SUBSIDIARIES
CONDENSED CONSOLIDATED BALANCE SHEETS
(In thousands)
(Unaudited)

	March 31, 2023	December 31, 2022
Assets		
Current assets:		
Cash and cash equivalents	$ 217,968	$ 246,624
Restricted cash	28,436	42,562
Accounts receivable, net of allowance of $1,346 and $972 at March 31, 2023 and December 31, 2022, respectively	6,990	5,613
Prepaid expenses	5,128	8,066
Other current assets	12,708	10,065
Total current assets	271,230	312,930
Property and equipment, net	35,432	34,926
Operating lease right-of-use ("ROU") assets	1,201,007	1,209,486
Other non-current assets	13,791	16,270
Total assets	$ 1,521,460	$ 1,573,612
Liabilities and stockholders' deficit		
Current liabilities:		
Accounts payable	$ 14,093	$ 16,082
Accrued liabilities	18,230	20,131
Taxes payable	16,497	14,418
Deferred revenue	58,424	41,664
Current operating lease liabilities	172,422	158,346
Total current liabilities	279,666	250,641

Non-current operating lease liabilities	1,156,913	1,166,538
Long-term debt, net	179,665	172,950
Other non-current liabilities	2,043	3,430
Total liabilities	1,618,287	1,593,559

* * *

Operating lease ROU assets are included within operating lease right-of-use assets in the consolidated balance sheets. The corresponding operating lease liabilities are included within current operating lease liabilities and non-current operating lease liabilities in the consolidated balance sheets. ROU assets represent the Company's right to use an underlying asset for the lease term and lease liabilities represent the Company's obligation to make lease payments arising from the lease.

Lease expense for fixed operating lease payments is recognized on a straight-line basis over the lease term. The Company's lease terms may include options to extend or terminate the lease when it is reasonably certain that it will exercise that option.

Components of lease expense were as follows (in thousands):

	Three months ended March 31,	
	2023	2022
Operating lease cost	$ 75,259	$ 62,947
Short-term lease cost	632	2
Variable lease cost	1,501	643
Total operating lease cost	$ 77,392	$ 63,592

Supplemental information related to operating leases was as follows (in thousands):

	Three months ended March 31,	
	2023	2022
Cash payments for operating leases	$ 68,215	$ 49,765
New operating lease ROU assets obtained in exchange for operating lease liabilities	$ 38,527	$ 114,900

Rental expense for operating leases for the three months ended March 31, 2023 and 2022 was $77.4 million and $65.1 million, respectively, of which $76.4 million and $63.6 million, respectively, is recognized in cost of revenues, $0.2 million and $0.7 million respectively, in operations and support, and $0.8 million and $0.8 million, respectively, in general and administrative.

34. The 1Q23 Report failed to disclose any impairment charges.

35. The 1Q23 Report failed to disclose the extent of its internal controls stating the following, in relevant part, regarding the Company's internal controls:

> Leases
>
> We previously identified a material weakness in our internal control over financial reporting related to the process to capture and record lease agreements timely and accurately. ***Management has concluded that this material weakness in internal control over financial reporting is due to the fact that the Company did not have the adequate resources with the appropriate level of experience and technical expertise to oversee the Company's leasing business processes and related internal controls.***
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> * * *
>
> *Changes in Internal Control over Financial Reporting*
>
> Other than the remediation efforts in progress, during the period covered by this report, ***there has been no change in our internal control over financial reporting that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.***

36. On August 9, 2023, the Company filed with the SEC its second quarter report on Form 10-Q for the period ended June 30, 2023 (the "2Q23 Report"). Attached to the 2Q23 Report were certifications pursuant to SOX signed by CEO Davidson and CFO Bourgault attesting to the accuracy of financial reporting, the disclosure of any material changes to the Company's internal control over financial reporting and the disclosure of all fraud.

37. The 2Q23 Report provided the following, in pertinent part, regarding the valuation of operating lease ROU assets and related items:

CONDENSED CONSOLIDATED BALANCE SHEETS
(In thousands)
(Unaudited)

	June 30, 2023	December 31, 2022
Assets		
Current assets:		
Cash and cash equivalents	$ 177,444	$ 246,624
Restricted cash	42,069	42,562
Accounts receivable, net of allowance of $1,461 and $972 at June 30, 2023 and December 31, 2022, respectively	14,042	5,613
Prepaid expenses	8,786	8,066
Other current assets	11,516	10,065
Total current assets	253,857	312,930
Property and equipment, net	31,616	34,926
Operating lease right-of-use ("ROU") assets	1,308,719	1,209,486
Other non-current assets	13,667	16,270
Total assets	$ 1,607,859	$ 1,573,612
Liabilities and stockholders' deficit		
Current liabilities:		
Accounts payable	$ 19,878	$ 16,082
Accrued liabilities	18,555	20,131
Taxes payable	15,476	14,418
Deferred revenue	59,858	41,664
Current operating lease liabilities	183,487	158,346

Total current liabilities	297,254	250,641
Non-current operating lease liabilities	1,259,207	1,166,538
Long-term debt, net	186,884	172,950
Other non-current liabilities	1,106	3,430
Total liabilities	1,744,451	1,593,559

* * *

Operating lease ROU assets are included within operating lease right-of-use assets in the condensed consolidated balance sheets. The corresponding operating lease liabilities are included within current operating lease liabilities and non-current operating lease liabilities in the condensed consolidated balance sheets. ROU assets represent the Company's right to use an underlying asset for the lease term and lease liabilities represent the Company's obligation to make lease payments arising from the lease.

Lease expense for fixed operating lease payments is recognized on a straight-line basis over the lease term. The Company's lease terms may include options to extend or terminate the lease when it is reasonably certain that it will exercise that option.

Components of lease expense were as follows (in thousands):

	Three months ended June 30,		Six months ended June 30,	
	2023	2022	2023	2022
Operating lease cost	$ 74,579	$ 65,876	$ 149,838	$ 128,823
Short-term lease cost	(201)	477	431	479
Variable lease cost	371	944	1,872	1,587
Total operating lease cost	$ 74,749	$ 67,297	$ 152,141	$ 130,889

Supplemental information related to operating leases was as follows (in thousands):

	Three months ended June 30,		Six months ended June 30,	
	2023	2022	2023	2022

Cash payments for operating leases	$	74,958	$	56,838	$	143,173	$	106,603
New operating lease ROU assets obtained in exchange for operating lease liabilities	$	148,510	$	11,968	$	187,037	$	126,868

Total operating lease cost for the three months ended June 30, 2023 and 2022 was $74.7 million and $67.2 million, respectively, of which $74.3 million and $64.5 million, respectively, is recognized in cost of revenues, $0.2 million and $0.2 million, respectively, in operations and support, and $0.2 million and $1.1 million, respectively, in general and administrative in the condensed consolidated statements of operations and comprehensive loss.

Total operating lease cost for the six months ended June 30, 2023 and 2022 was $152.1 million and $130.9 million, respectively, of which $150.6 million and $128.1 million, respectively, is recognized in cost of revenues, $0.4 million and $0.9 million respectively, in operations and support, and $1.1 million and $1.9 million, respectively, in general and administrative in the condensed consolidated statements of operations and comprehensive loss.

38. The 2Q23 Report failed to disclose any impairment charges.

39. The 2Q23 Report provided the following, in pertinent part, regarding the Company's internal controls:

> <u>Leases</u>
>
> We previously identified a material weakness in our internal control over financial reporting related to the process to capture and record lease agreements timely and accurately. ***Management has concluded that this material weakness in internal control over financial reporting is due to the fact that the Company did not have the adequate resources with the appropriate level of experience and technical expertise to oversee the Company's leasing business processes and related internal controls.***
>
> * * *
>
> *Changes in Internal Control over Financial Reporting*
>
> Other than the remediation efforts in progress, during the period covered by this report, ***there has been no change in our internal control over financial reporting that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.***

40. On November 14, 2023, the Company filed with the SEC its third quarter report on Form 10-Q for the period ended September 30, 2023 (the "3Q23 Report"). Attached to the 3Q23 Report were certifications pursuant to SOX signed by CEO Davidson and CFO Bourgault attesting to the accuracy of financial

reporting, the disclosure of any material changes to the Company's internal control over financial reporting and the disclosure of all fraud.

41. The 3Q23 Report provided the following, in pertinent part, regarding the valuation and impairment of operating lease ROU assets and related items:

SONDER HOLDINGS INC. AND SUBSIDIARIES

CONDENSED CONSOLIDATED BALANCE SHEETS
(In thousands)
(Unaudited)

	September 30, 2023		December 31, 2022	
Assets				
Current assets:				
Cash and cash equivalents	$	166,045	$	246,624
Restricted cash		41,188		42,562
Accounts receivable, net of allowance of $3,265 and $972 at September 30, 2023 and December 31, 2022, respectively		9,105		5,613
Prepaid expenses		6,388		8,066
Other current assets		10,532		10,065
Total current assets		233,258		312,930
Property and equipment, net		28,462		34,926
Operating lease right-of-use ("ROU") assets		1,439,572		1,209,486
Other non-current assets		15,045		16,270
Total assets	$	1,716,337	$	1,573,612
Liabilities and stockholders' deficit				
Current liabilities:				
Accounts payable	$	20,514	$	16,082
Accrued liabilities		24,694		20,131
Taxes payable		15,894		14,418

Deferred revenue	67,819	41,664
Current portion of long-term debt	1,000	—
Current operating lease liabilities	199,345	158,346
Total current liabilities	329,266	250,641
Non-current operating lease liabilities	1,382,693	1,166,538
Long-term debt, net	196,398	172,950
Other non-current liabilities	668	3,430
Total liabilities	1,909,025	1,593,559

* * *

SONDER HOLDINGS INC. AND SUBSIDIARIES

CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(In thousands)
(Unaudited)

	Nine months ended September 30,	
	2023	2022
Cash flows from operating activities:		
Net loss	$ (196,034)	$ (108,392)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization	18,908	17,801
Stock-based compensation	25,362	18,139
Amortization of operating lease ROU assets	130,192	105,569
Impairment of ROU assets	1,087	—
(Gain) loss on foreign exchange	(2,445)	13,092
Capitalization of paid-in-kind interest on long-term debt	20,418	12,544

Amortization of debt issuance costs	6	149
Amortization of debt discounts	1,274	3,374
Change in fair value of share-settled redemption feature and gain on conversion of convertible notes	—	(29,512)
Change in fair value of SPAC Warrants	(674)	(23,819)
Change in fair value of Earn Out Liability	(2,142)	(94,299)
Other operating activities	897	1,362
Changes in:		
Accounts receivable, net	(4,817)	(1,560)
Prepaid expenses	1,885	(2,543)
Other current and non-current assets	1,177	10,750
Accounts payable	4,433	(28,401)
Accrued liabilities	3,911	2,295
Taxes payable	1,706	6,181
Deferred revenue	25,651	30,204
Operating lease ROU assets and operating lease liabilities, net	(105,422)	(58,493)
Other current and non-current liabilities	589	1,467
Net cash used in operating activities	(74,038)	(124,092)

* * *

Operating lease ROU assets are included within operating lease right-of-use assets in the condensed consolidated balance sheets. The corresponding operating lease liabilities are included within current operating lease liabilities and non-current operating lease liabilities in the condensed consolidated balance sheets. ROU assets represent the Company's right to use an underlying asset for the lease term and lease liabilities represent the Company's obligation to make lease payments arising from the lease.

Lease expense for fixed operating lease payments is recognized on a straight-line basis over the lease term. The Company's lease terms may include options to extend or terminate the lease when it is reasonably certain that it will exercise that option.

Components of lease expense were as follows (in thousands):

	Three months ended September 30,		Nine months ended September 30,	
	2023	2022	2023	2022
Operating lease cost	$ 85,025	$ 61,498	$ 234,801	$ 191,908
Short-term lease cost	343	1,951	780	2,430
Variable lease cost	6,356	—	9,425	—
Total operating lease cost	$ 91,724	$ 63,449	$ 245,006	$ 194,338

Supplemental information related to operating leases was as follows (in thousands):

	Three months ended September 30,		Nine months ended September 30,	
	2023	2022	2023	2022
Cash payments for operating leases	$ 73,777	$ 64,690	$ 216,950	$ 171,292
New operating lease ROU assets obtained in exchange for operating lease liabilities	$ 173,781	$ 73,007	$ 360,818	$ 199,875

Total operating lease cost for the three months ended September 30, 2023 and 2022 was $91.7 million and $63.4 million, respectively, of which $91.2 million and $62.0 million, respectively, is recognized in cost of revenues, $0.2 million and $0.5 million, respectively, in operations and support, and $0.3 million and $0.9 million, respectively, in general and administrative in the condensed consolidated statements of operations and comprehensive loss.

Total operating lease cost for the nine months ended September 30, 2023 and 2022 was $245.0 million and $194.3 million, respectively, of which $243.0 million and $190.1 million, respectively, is recognized in cost of revenues, $0.6 million and $1.4 million respectively, in operations and support, and $1.4 million and $2.8 million, respectively, in general and administrative in the condensed consolidated statements of operations and comprehensive loss.

As of September 30, 2023, the Company identified an impairment of its operating lease right of use (ROU) asset and recorded a related impairment charge in the amount of $1.1 million. The impairment charge is included within other operating expenses for the three and nine months ended September 30, 2023 as reported in the condensed consolidated statements of operations.

42. The 3Q23 Report provided the following, in pertinent part, regarding the Company's internal controls:

<u>Leases</u>

We previously identified a material weakness in our internal control over financial reporting related to the process to capture and record

> lease agreements timely and accurately. ***Management has concluded that this material weakness in internal control over financial reporting is due to the fact that the Company did not have the adequate resources with the appropriate level of experience and technical expertise to oversee the Company's leasing business processes and related internal controls.***
>
> * * *
>
> *Changes in Internal Control over Financial Reporting*
>
> Other than the remediation efforts in progress, during the period covered by this report, ***there has been no change in our internal control over financial reporting that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.***

43. The statements contained in ¶¶28-29, 31-33, 35-37, and 39-42 were materially false and/or misleading because they misrepresented and failed to disclose the following adverse facts pertaining to the Company's business, operations and prospects, which were known to Defendants or recklessly disregarded by them. Specifically, Defendants made false and/or misleading statements and/or failed to disclose that: (1) Sonder failed to disclose all issues with its internal controls; (2) Sonder's financial statements for the 2022 Annual Report and the interim periods ended March 31, June 30, and September 30, 2023 contained material errors in the way the Company accounted for the valuation and impairment of operating lease ROU assets; (3) as a result, Sonder would need to restate its previously issued financial statements for those periods; and (4) as a result, Defendants' statements about its business, operations, and prospects, were materially false and misleading and/or lacked a reasonable basis at all relevant times.

E. <u>The Truth Begins to Emerge</u>

44. On March 15, 2024, after market hours, the Company issued a press release on Form 8-K announcing the Company's audited financial statement for the 2022 Annual Report, and the unaudited consolidated financial statements in 2023 (collectively with the 2022 Annual Report, the "Affected Financial Statements"),

should no longer be relied upon due to "accounting errors related to the valuation and impairment of operating lease ROU assets and related items."

45. The 8-K stated the following in relevant part:

> **Item 4.02 Non-Reliance on Previously Issued Financial Statements or a Related Audit Report or Completed Interim Review**
>
> On March 14, 2024, the Audit Committee (the "Audit Committee") of the Board of Directors of the Company determined, based on management's recommendation, that the Company's audited consolidated financial statements for the year ended December 31, 2022 (the "2022 Annual Financial Statements"), and the unaudited condensed consolidated financial statements included in each of the Company's quarterly reports on Form 10-Q filed with the Securities and Exchange Commission (the "SEC") in 2023 (collectively with the 2022 Annual Financial Statements, the "Affected Financial Statements"), should no longer be relied upon due to accounting errors related to the valuation and impairment of operating lease right of use ("ROU") assets and related items. In this report, the periods covered by the Affected Financial Statements are referred to as the "Non-Reliance Periods."
>
> Any previously issued or filed reports, earnings releases, and investor presentations or other communications including or describing the Affected Financial Statements and related financial information covering the Non-Reliance Periods should no longer be relied upon. Similarly, the report of the Company's independent registered public accounting firm accompanying the previously issued 2022 Annual Financial Statements should no longer be relied upon.
>
> The Company has previously identified and reported material weaknesses in internal controls over financial reporting related to the Company's leases, control activities and control environment. During the on-going preparation of the Company's financial statements for the fiscal year ended December 31, 2023, the Company's management identified specific errors in the processes and procedures surrounding the Company's assessment of the valuation and impairment of its ROU lease assets and related items. Upon additional review, the Company's management determined that the valuation of certain ROU lease assets and related items as of and for each of the Non-Reliance Periods had not considered certain relevant impairment indicators and related valuation information impacting the carrying value of such assets and related items, as required by Accounting Standards Codification (ASC) Nos. 842, Leases, and 360, Property, Plant, and Equipment, in addition to related standards and interpretations.
>
> The Company previously recorded an impairment charge in the amount of $1.1 million related to ROU lease assets in its unaudited condensed consolidated financial statements for the three and nine months ended September 30, 2023, but no impairment charges were recorded in the

other interim financial statements in the Non-Reliance Periods or in the 2022 Annual Financial Statements. Based on the Company's review, which is ongoing, the Company expects to record material non-cash impairment charges, and related reductions in ROU lease assets and related items, in certain of the Non-Reliance Periods.

The foregoing ROU lease asset and related item errors are non-cash in nature and will not impact the Company's reported cash balances or statements of cash flows for the Non-Reliance Periods. ***The Company expects that the restatements will increase the Company's overall net loss and loss per share in the impacted periods.***

The Company intends to restate the Affected Financial Statements to correct the errors discussed above, and consider any other error corrections identified in the course of its review, as soon as practicable. Investors and others should rely on financial information and other disclosures regarding the Non-Reliance Periods only after the Company restates its financial statements for the Non-Reliance Periods.

The Company anticipates that it will not timely file its Annual Report on Form 10-K for the fiscal year ended December 31, 2023 (the "FY 2023 10-K") and will file a notification of late filing on Form 12b-25 with the SEC. The Company does not currently expect that it will file the FY 2023 10-K within the 15-day extension period contemplated by Rule 12b-25(b) under the Securities Exchange Act of 1934, as amended. Accordingly, the Company expects to receive a notice from The Nasdaq Stock Market that it is not in compliance with the timely filing requirement for continued listing under Nasdaq Listing Rule 5250(c)(1).

* * *

Although the assessment is not yet complete, the Company anticipates that the review will result in one or more material weaknesses in the Company's internal control over financial reporting during the applicable periods, in addition to the Company's previously identified and reported material weaknesses.

The Company's management and the Audit Committee have discussed the foregoing matters with the Company's independent registered public accounting firm, Deloitte & Touche LLP.

The Company's restatement and the related items discussed in this Form 8-K could have an adverse effect upon the Company's debt, including under the Loan and Security Agreement dated as of December 21, 2022, as amended, with Silicon Valley Bank, a division of First Citizens Bank & Trust Company, and the Note and Warrant Purchase Agreement dated as of December 10, 2021, as amended, with certain private placement investors. The Company is engaging in discussions with its lenders to seek waivers of any noncompliance under the terms of its debt resulting from the accounting errors and to permit the late filing of the FY 2023 10-K. ***If such waivers are not obtained, any such noncompliance may entitle our lenders to terminate any existing commitments to lend, impose increased***

> ***interest rates, accelerate our outstanding debt obligations, initiate foreclosure proceedings against any assets constituting collateral for such obligations and exercise other rights and remedies available under the terms of our debt agreements. If our debt were to be accelerated, the Company may not have sufficient cash or be able to borrow sufficient funds to refinance the debt or sell sufficient assets to repay the debt, which could immediately adversely affect our business, cash flows, results of operations and financial condition.*** Even if we were able to obtain new financing or negotiate amended terms with our existing lenders, such financing or amendments may not be on commercially reasonable terms or on terms that are acceptable to us.
>
> As of December 31, 2023, the Company's total cash, cash equivalents and restricted cash was $136.5 million, of which $40.7 million was restricted, as compared to $207.2 million, of which $41.2 million was restricted, as of September 30, 2023. As communicated in prior disclosures, the Company has been executing on a number of initiatives to improve its financial position, including reducing its corporate headcount by 38% since the first quarter of 2022, and engaging in a portfolio optimization program to improve the financial performance of the properties it operates. The Company is also exploring a number of additional opportunities to improve revenue by enhancing its distribution arrangements, further reduce its expenditures, and partner with current or alternative capital providers to improve its liquidity position, but can give no assurances that these alternatives will be successful. ***If these alternatives are not successful, the Company may not be able to continue ongoing operations or meet its obligations without favorable liquidity options or additional funding.***

46. That same day, the Company issued a Notification of Late Filing on Form 12b-25, which stated the following in relevant part:

> Sonder Holdings Inc. (the "Company") is unable to file its Annual Report on Form 10-K for the year ended December 31, 2023 (the "Form 10-K") within the prescribed time period, without unreasonable effort or expense. As disclosed in the Company's Current Report on Form 8-K dated March 15, 2024, which is hereby incorporated by reference, on March 14, 2024, the Audit Committee of the Board of Directors of the Company determined, based on management's recommendation, that the Company's audited consolidated financial statements for the year ended December 31, 2022, and the unaudited condensed consolidated financial statements included in each of the Company's quarterly reports on Form 10-Q filed with the Securities and Exchange Commission in 2023, should no longer be relied upon due to accounting errors related to the valuation and impairment of operating lease right of use assets and related items. The Company intends to restate the affected financial statements to correct the errors and any other errors identified in the course of its review, as soon as practicable. The Company's management is also assessing the effect of these matters on the Company's internal control over financial reporting and its

> disclosure controls and procedures. The Company requires additional time to complete the foregoing restatements and control assessments and to finalize its fiscal year 2023 financial statements for inclusion in the Form 10-K. The Company does not expect to file the Form 10-K within the 15-day extension period prescribed by Rule 12b-25 under the Securities Exchange Act of 1934, as amended.
>
> The description above is preliminary and subject to change in connection with the Company's ongoing review and the completion of the anticipated restatements. Accordingly, there can be no assurance as to the timing of the filing of the Form 10-K or the results of the Company's ongoing review.

47. On this news, Sonder's stock price fell $2.10 per share, or 38.2%, to close at $3.40 per share on March 18, 2024, damaging investors.

48. On August 22, 2024, Sonder announced that Deeksha Hebbar resigned as Chief Operating Officer, effective August 31, 2024.

49. On September 27, 2024, Sonder filed with the SEC its Form 10-K for the period ended December 31, 2023. Within the Form 10-K, the Company stated the following:

> As described in the Company's Current Report on Form 8-K filed with the SEC on March 15, 2024, on March 14, 2024, the Audit Committee (the "Audit Committee") of the Board of Directors of the Company determined, based on management's recommendation, that the Company's previously issued audited consolidated financial statements for the year ended December 31, 2022 (the "2022 Annual Financial Statements"), and the unaudited condensed consolidated financial statements included in each of the Company's quarterly reports on Form 10-Q filed with the SEC in 2023 (collectively with the 2022 Annual Financial Statements, the "Affected Financial Statements"), should no longer be relied upon.
>
> Additionally, the Company determined any previously issued or filed reports, earnings releases, and investor presentations or other communications including or describing the Affected Financial Statements and related financial information covering the Affected Financial Statements should no longer be relied upon.
>
> The Company has previously identified and reported material weaknesses in internal controls over financial reporting related to the Company's leases, control activities and control environment. During the preparation of the Company's financial statements for the year ended December 31, 2023, the Company's management identified specific errors in the processes and procedures surrounding the

> Company's assessment of the valuation and impairment of its right-of-use ("ROU") lease assets and related items. Management identified a material weakness in its controls related to this matter, which is included in Part II, Item 9A of this Annual Report on Form 10-K.
>
> **Restatement of Previously Issued Consolidated Financial Statements**
>
> This Annual Report on Form 10-K for the year ended December 31, 2023 includes consolidated financial statements as of and for the years ended December 31, 2023, 2022 and 2021, as well as the relevant unaudited interim financial information for the quarterly periods in the years ended December 31, 2023 and 2022. The Company has restated certain information within this Annual Report on Form 10-K, including the consolidated financial statements as of and for the year ended December 31, 2022, and the relevant unaudited interim financial information for the quarterly periods in 2022 and 2023. In addition to the restatement errors described above, the Company has also corrected certain items that were previously identified and determined to be immaterial, individually and in the aggregate, to the consolidated financial statements for the year ended December 31, 2022 and the interim financial information for the quarterly periods in 2022 and 2023.
>
> Additionally, the Company identified certain adjustments which were previously corrected out of period in the year ended December 31, 2022 but which related to activity occurring in the year ended December 31, 2021. In the context of its current restatement of the year ended December 31, 2022, the Company has also restated the year ended December 31, 2021 to reflect correction for these adjustments and has marked the impacted financial statements for the year ended December 31, 2021 as 'Restated' to highlight the correction of these immaterial errors. The Company considers its restatement to the year ended December 31, 2021 to be immaterial as defined in Accounting Standards Codification ("ASC") 250, *Accounting Changes and Error Corrections*, and related standards and interpretations.

50. On November 4, 2024, Sonder issued a Form 8-K in which the Company announced that "Dominique Bourgault, our Chief Financial Officer, informed us of his decision to resign from that position, effective December 2, 2024. We have initiated a search process with a leading search firm to identify a successor to Mr. Bourgault. On November 7, 2024, Adam Bowen, our Chief Accounting Officer, informed us of his decision to resign from that position, effective December 31, 2024."

51. Because of Defendants' misrepresentations and half-truths alleged herein, Plaintiff and other Class members have suffered significant losses and damages.

V. DEFENDANTS ACTED WITH SCIENTER

52. During the Class Period, Defendants had both the motive and opportunity to commit fraud. Defendants also had actual knowledge of the misleading nature of the statements they made or acted in reckless disregard of the true information known to them at the time. Thus, Defendants participated in a scheme to defraud and committed acts, practices, and participated in a course of business that operated as a fraud or deceit on purchasers of the Company's securities during the Class Period. The following information is a non-exclusive listing of examples of facts demonstrating Defendants' scienter during the Class Period.

A. <u>The Accounts of CWs Support a Strong Inference of Scienter</u>

53. The accounts of Confidential Witnesses ("CWs") who served as former employees at the Company demonstrate that Defendants acted with scienter when they made their false and misleading statements. For instance, CW1 was a senior leasing analyst at the Company from August 2022 to February 2024. CW1 stated that CW1 contributed to the implementation of ASC 842 at the Company, a process that began after an audit was conducted of the Company by Deloitte. CW1 commenced work in the fall of 2022.

54. According to CW1, Deloitte found that the Company's accounting "was garbage." CW1 understood that when a new lease was entered, under ASC 842, the accounting needed to be forecasted over at least five years. CW1 stated, however, that when the Company's leases were signed, no one created a simple Excel spreadsheet to conduct this forecasting.

55. CW1 stated further that the Company's accountant, Deloitte, found that Sonder had provisions in the leases it entered that permitted rent to be suspended or

partially discounted in certain circumstances, or that a cap could be placed upon rent increases. CW1 stated that such provisions – along with the fact that Sonder did not engage in rent forecasting – created accounting problems that the Company did not adequately address.

56. CW1 stated that these problems were discussed during "many, many meetings" over the course of several months, and that there were so many mistakes that it was faster to start from scratch in most instances than to find mistakes and fix them. CW1 stated that most of the C-suite, including the CEO, CFO, and Vice Presidents, participated in these meetings. According to CW1, there were first weekly updates, and then later bi-weekly updates, that focused upon these issues. CW1 stated further that all the members of the Company's leadership were aware of the results of Deloitte's audit.

57. The account of CW2 further demonstrates that Defendants acted with scienter. CW2 served as a Senior Lease Accountant from July 2021 to August 2022 and as a Lease Accounting and Administration Manager from August 2022 to May 2024. CW2 stated that CW2 had been familiar with ASC 842 since 2018. According to CW2, however, the Company had not properly implemented systems in place to comply with ASC 842 when it went public. CW2 also stated that leadership at the Company was "horrible," and that leadership turnover contributed to the problems that the Company encountered.

B. The Core Operations Inference Supports a Strong Inference of Scienter

58. The facts alleged also support a strong inference of scienter because they relate to the core operations of the Company. For instance, Sonder has stated that "[w]e have identified certain policies and estimates as critical to our business operations and the understanding of our past or present consolidated financial condition and results of operations. These policies and estimates are considered

critical because they have a material impact, or they have the potential to have a material impact, on our consolidated financial statements and because they require us to make significant judgments, assumptions, or estimates." Additionally, according to CW1, approximately 75% of the income that Sonder generated was derived from about 500 locations out of the approximately 2,000 locations involved in the Company's business.

C. The Simplicity of the Applicable Accounting Principles Supports a Strong Inference of Scienter

59. The simplicity of the relevant accounting standards also bolsters the strong inference of scienter alleged. Specifically, ASC 842 can be simple to understand, interpret, and apply, particularly for accounting professionals. ASC 842 requires that lessees recognize assets and liabilities on the balance sheet for all leases with terms longer than 12 months. ASC 842 also eliminates the classification of leases as either operating leases or finance leases for lessees. Instead, lessees must recognize a right-of-use asset and a lease liability for virtually all lease contracts. Additionally, like ASC 842, ASC 360 can be simple to understand, interpret, and apply, particularly for accounting professionals.

D. The Magnitude of the Restatement Supports a Strong Inference of Scienter

60. The magnitude of the Company's restatement further supports a strong inference of scienter. Indeed, Sonder disclosed that it lost nearly $80 million more in 2022 than it previously reported. In fact, Sonder's net loss in 2022 was more than $245.03 million – it had previously reported a loss of $165.7 million. And Sonder's net loss in 2023 widened to nearly $295.6 million after it filed its 2023 Form 10-K.

E. The Departures of Key Executives Support a Strong Inference of Scienter

61. The departures of key executives from the Company add to the strong inference of scienter alleged. For example, on August 22, 2024, Sonder announced

that Deeksha Hebbar resigned as Chief Operating Officer, effective August 31, 2024. Additionally, on November 4, 2024, Sonder issued a Form 8-K in which the Company announced that "Dominique Bourgault, our Chief Financial Officer, informed us of his decision to resign from that position, effective December 2, 2024. We have initiated a search process with a leading search firm to identify a successor to Mr. Bourgault. On November 7, 2024, Adam Bowen, our Chief Accounting Officer, informed us of his decision to resign from that position, effective December 31, 2024."

VI. CLASS ACTION ALLEGATIONS

62. Plaintiff brings this action as a class action pursuant to Rules 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure on behalf of a class consisting of all those who purchased the Company's securities during the Class Period, and who were damaged thereby (the "Class"). Excluded from the Class are Defendants and their families, the officers and directors of the Company, at all relevant times, members of their immediate families and their legal representatives, heirs, successors or assigns, and any entity in which Defendants have, or had, a controlling interest.

63. The members of the Class are so numerous that joinder of all members is impracticable. Throughout the Class Period, the Company's securities was actively traded on NASDAQ. While the exact number of Class members is unknown to Plaintiff at this time and can only be ascertained through appropriate discovery, Plaintiff believes that there are hundreds or thousands of members in the proposed Class. Record owners and other members of the Class may be identified from records maintained by the Company or its transfer agent and may be notified of the pendency of this action by mail, using the form of notice similar to that customarily used in securities class actions.

64. Plaintiff's claims are typical of the claims of the members of the Class, since all members of the Class are similarly affected by Defendants' wrongful conduct in violation of federal law alleged herein.

65. Plaintiff will fairly and adequately protect the interests of the members of the Class and has retained counsel competent and experienced in class action and securities litigation.

66. Common questions of law and fact exist as to all members of the Class and predominate over any questions solely affecting individual members of the Class. Among the questions of law and fact common to the Class are:

(a) whether Defendants' acts constituted violations of the federal securities laws;

(b) whether Defendants' statements made to the investing public during the Class Period misrepresented material facts concerning the Company's business, operations, and financial condition;

(c) whether the price of the Company's securities was artificially inflated during the Class Period; and

(d) to what extent the members of the Class have sustained damages and the proper measure of damages.

67. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy since joinder of all members is impracticable. Furthermore, as the damages suffered by individual Class members may be relatively small, the expense and burden of individual litigation make it impossible for members of the Class to individually redress the wrongs done to them. Additionally, there will be no difficulty in the management of this action as a class action.

VII. LOSS CAUSATION

68. During the Class Period, as detailed herein, Defendants engaged in a scheme to deceive the market and a course of conduct that artificially inflated the price of the Company's securities. Defendants' conduct, moreover, operated as a fraud or deceit on Class Period purchasers of the Company's securities by failing to disclose, and misrepresenting, the adverse facts detailed herein. As Defendants' prior misrepresentations and fraudulent conduct were disclosed and became apparent to the market, the price of the Company's securities declined significantly as the prior artificial inflation dissipated from the Company's stock price.

69. As a direct result of Defendants' misstatements and half-truths alleged herein, the Company's stock price was higher than it would have been but for Defendants' misrepresentations and half-truths. Specifically, Defendants' misstatements and half-truths increased the Company's stock price, maintained the Company's stock price, and/or prevented a greater decrease in the Company's stock price.

70. As a result of the purchases of the Company's securities during the Class Period, Plaintiff and the other members of the Class suffered economic loss (damages) under the federal securities laws. Defendants' false and misleading statements had the intended effect, and caused, the Company's securities to trade at artificially inflated levels throughout the Class Period.

71. By concealing from investors the adverse facts detailed herein, Defendants presented a misleading picture of the Company's business and prospects. As the truth regarding the Company was revealed to the market, the price of the Company's securities fell significantly. These declines removed the inflation from the price of the Company's securities, causing real economic loss to investors who purchased the Company's securities during the Class Period.

72. The declines in the price of the Company's securities after the corrective disclosures came to light were a direct result of the nature and extent of Defendants' fraudulent misrepresentations being revealed to investors and the market. The timing and magnitude of the price declines in the Company's securities negate any inference that the loss suffered by Plaintiff and the other Class members was caused by changed market conditions, macroeconomic, or industry factors, or by Company-specific facts unrelated to Defendants' fraudulent conduct.

73. The economic loss (damages) suffered by Plaintiff and the other Class members was a direct result of Defendants' fraudulent scheme to artificially inflate the price of the Company's securities and the subsequent significant decline in the value of the Company's securities when Defendants' prior misrepresentations and other fraudulent conduct were revealed.

VIII. APPLICABILITY OF PRESUMPTION OF RELIANCE: FRAUD ON THE MARKET DOCTRINE

74. At all relevant times, the market for the Company's securities was an efficient market for the following reasons, among others:

(a) The Company's securities met the requirements for listing, and was listed and actively traded on, NASDAQ, a highly efficient, electronic stock market;

(b) As a regulated issuer, the Company filed periodic public reports with the SEC and NASDAQ;

(c) The Company regularly communicated with public investors via established market communication mechanisms, including regular disseminations of press releases on the national circuits of major newswire services and other wide-ranging public disclosures, such as communications with the financial press and other similar reporting services; and

(d) The Company was followed by securities analysts employed by major brokerage firms who wrote reports that were distributed to the sales force and certain customers of their respective brokerage firms. Each of these reports was publicly available and entered the public marketplace.

75. As a result of the foregoing, the market for the Company's securities promptly digested current information concerning the Company from all publicly available sources and reflected such information in the prices of the Company's securities. Under these circumstances, all purchasers of the Company's securities during the Class Period suffered similar injury through their purchase of the Company's securities at artificially inflated prices and a presumption of reliance applies.

IX. NO SAFE HARBOR

76. The statutory safe harbor provided for forward-looking statements under certain circumstances does not apply to any of the allegedly false statements alleged herein. Many of the specific statements alleged herein were not identified as "forward-looking statements" when made, and thus are not entitled to protection under the safe harbor provision. Additionally, to the extent that there were any forward-looking statements, there were no meaningful cautionary statements identifying important factors that could cause actual results to differ materially from those in the purportedly forward-looking statements. Alternatively, to the extent that the statutory safe harbor does apply to any forward-looking statements alleged herein, Defendants are liable for those false forward-looking statements because at the time each of those forward-looking statements were made, the particular speaker knew that the particular forward-looking statement was false, and/or the forward-looking statement was authorized and/or approved by an executive officer of the Company who knew that those statements were false when made.

COUNT I
Violation of Section 10(b) of the Exchange Act and SEC Rule 10b-5 Promulgated Thereunder Against All Defendants

77. Plaintiff repeats and realleges each and every allegation contained above as though set forth in full herein.

78. During the Class Period, Defendants disseminated or approved the materially false and misleading statements specified above, which they knew, or were deliberately reckless in not knowing, were misleading. These statements were false and misleading because they contained misrepresentations and failed to disclose material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading.

79. To the extent that the claims alleged herein are based upon the omission of information, such omissions were made in connection with the misrepresentations and misleading half-truths alleged herein and were not based upon pure omissions.

80. Defendants: (1) employed devices, schemes, and artifices to defraud; (2) made untrue statements of material fact/and or omitted to state material facts necessary to make the statements made not misleading; and (3) engaged in acts, practices, and a course of business that operated as a fraud and deceit upon the purchasers of the Company's securities during the Class Period.

81. Plaintiff and the Class have suffered damages in that, in reliance on the integrity of the market, they paid artificially inflated prices for the Company's securities. Plaintiff and the Class would not have purchased the Company's securities at the prices they paid – or at all – if they had been aware that the market prices had been artificially and falsely inflated by Defendants' misleading statements.

82. As a direct and proximate result of Defendants' wrongful conduct, Plaintiff and the other members of the Class suffered damages in connection with their purchases of the Company's securities during the Class Period.

COUNT II
Violation of Section 20(a) of the Exchange Act Against the Individual Defendants

83. Plaintiff repeats and realleges each and every allegation contained above as though set forth in full herein.

84. The Individual Defendants acted as controlling persons of the Company within the meaning of Section 20(a) of the Exchange Act as alleged herein. By virtue of their high-level positions, and their ownership and contractual rights, participation in, and/or awareness of the Company's operations and/or intimate knowledge of the Company's statements filed with the SEC and disseminated to the investing public, the Individual Defendants had the power to influence and control, and did influence and control, directly or indirectly, the decision-making of the Company, including the content and dissemination of the various statements alleged to be false and misleading herein.

85. The Individual Defendants, moreover, were provided with, or had unlimited access to, copies of the Company's reports, press releases, public filings, and other statements alleged to be false and misleading herein. The Individual Defendants were provided with, or had unlimited access to, such documents and statements prior to, and/or shortly after these statements were issued, and therefore had the ability to prevent the issuance of the statements and/or cause the statements to be corrected. Additionally, the Individual Defendants had direct and supervisory involvement in the day-to-day operations of the Company and had the power to control or influence the particular transactions giving rise to the securities violations.

86. The Individual Defendants all had ultimate authority over the Company's statements, including controlling the content of such statements and whether and how to communicate such statements to the public.

87. By reason of such conduct, the Individual Defendants are liable pursuant to Section 20(a) of the Exchange Act.

X. PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief and judgment, as follows:

A. Determining that this action is a proper class action, designating Plaintiff as Lead Plaintiff, and certifying Plaintiff as a Class representative under Rule 23 of the Federal Rules of Civil Procedure and Plaintiff's counsel as Lead Counsel;

B. Awarding compensatory damages in favor of Plaintiff and the other Class members against all Defendants, jointly and severally, for all damages sustained as a result of Defendants' wrongdoing, in an amount to be proven at trial, including interest thereon;

C. Awarding Plaintiff and the Class their reasonable costs and expenses incurred in this action, including counsel fees and expert fees; and

D. Such other and further relief as the Court may deem just and proper.

XI. JURY DEMAND

Plaintiff hereby demands a trial by jury.

DATED: December 23, 2024

GLANCY PRONGAY & MURRAY LLP

By: */s/ Ex Kano S. Sams II*
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Attorneys for Plaintiff Tad Park

PROOF OF SERVICE BY ELECTRONIC POSTING

I, the undersigned say:

I am not a party to the above case, and am over eighteen years old. On December 23, 2024, I served true and correct copies of the foregoing document, by posting the document electronically to the ECF website of the United States District Court for the Central District of California, for receipt electronically by the parties listed on the Court's Service List.

I affirm under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on December 23, 2024.

/s/ Ex Kano S. Sams II
Ex Kano S. Sams II